

REMARKS

Reconsideration of the rejection of all claims is respectfully requested in view of the above amendments and the following remarks.

Claim Amendments

Claims 1-10 have been reformatted and/or amended in response to objections or grounds for rejection stated by the Examiner, as further described below. Claim 11 has been cancelled as being in a “use” form, which is not generally accepted under U.S. practice. Method of treatment claim 12 has been cancelled and replaced by new method of treatment claims 13, 14 and 15. All of the above amendments are made without abandonment or prejudice with respect to applicant’s right to pursue any of the deleted subject matter in one or more continuing applications.

Claim Rejections – 35 U.S.C. § 112

Claims 1-12 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the grounds recited in paragraphs 1-3 on page 2 of the Office Action.

With respect to paragraph 1, the reference to “derivative” in each claim has been changed to “compound” as suggested by the Examiner, thereby overcoming this ground for rejection.

With respect to paragraph 2, the recitation of “*in-vivo* cleavable ester thereof” has been amended to clarify that such ester is “formed from an available carboxy group.” It is believed that this amendment overcomes this ground for rejection.

Paragraph 3 of the Office Action objects to claim 11 being in a “use” format. This ground for rejection has been overcome by the cancellation of claim 11.

Claim 12 has been rejected under 35 U.S.C. § 112, first paragraph. The Examiner notes that “the specification, while being enabling for rheumatoid arthritis, does not reasonably provide enablement for any or all cytokines mediated conditions including those yet to be discovered as due to cytokines generically embraced in the claim language.” While applicant continues to believe that claim 12 is fully enabled and in an appropriate form, claim 12 has been cancelled in order to expedite this application toward allowance, and replaced by new method claims 13, 14 and 15.

Claim 13 is more specifically directed toward treating a disease or medical condition mediated by the production or effect of p38 kinase and claim 14 is more specifically directed to a method of treating a disease or condition mediated by the production or effect of TNF or IL-1, each by administration of a pyrimidine compound of claim 1. New claim 15 is directed toward a method for inhibiting the production or effect of TNF or IL-1 by administration of an inhibiting amount of a pyrimidine compound of claim 1. Support for these claims is found throughout the specification, including at page 44, line 31 through page 47, line 10. It is respectfully submitted that the greater specificity of method claims 13, 14 and 15 clearly brings these claims within the scope of enablement of the specification.

Information Disclosure Statement

The Examiner’s attention is called to the further Information Disclosure Statement being submitted herewith, including a listing of technically related applications and issued patents of applicant’s assignee. Copies of the corresponding published PCT application is

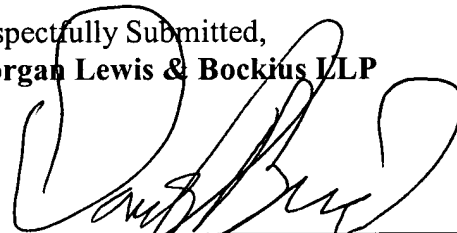
cited on and included with the Form PTO-1449 submitted therewith, or on the Form PTO-1449 submitted with this application as filed on March 5, 2002.

Conclusion

Entry of the foregoing claim amendments is respectfully requested. In view of these amendments and the foregoing remarks, it is believed that all of the claims are now in condition for allowance, and a notice to that effect is respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan Lewis & Bockius LLP



Date: September 22, 2003
Morgan Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. No.: 202-739-3000
DJB:mk

By: _____

Donald J. Bird
Registration No. 25,323
Tel. No.: (202) 739-5320
Fax No.: (202) 739-3001